

House Amendment 1698

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1 1 Amend House File 893 as follows:
1 2 #1. Page 1, line 1, by striking the word <This>
1 3 and inserting the following: <Sections 1 through 4 of
1 4 this>.
1 5 #2. By striking page 2, line 34, through page 3,
1 6 line 2.
1 7 #3. Page 3, by striking lines 3 and 4 and
1 8 inserting the following:
1 9 <Sec. _____. Section 421.8, Code 2007, is amended to
1 10 read as follows:
1 11 421.8 PENALTY FOR DEFECTIVE RETURN UNDER CERTAIN
1 12 CIRCUMSTANCES.
1 13 If a person files a purported return of tax which
1 14 does not contain information on which the substantial
1 15 correctness of the self-assessment may be judged or
1 16 which contains information that on its face indicates
1 17 that the self-assessment is substantially incorrect
1 18 and the conduct previously referred to in this section
1 19 is due to a position which is frivolous or a desire
1 20 which appears on the purported return to delay or
1 21 impede the administration of the tax laws of this
1 22 state, then the person shall pay a penalty of ~~five~~
1 23 ~~hundred one thousand~~ dollars. This penalty shall be
1 24 in addition to any other penalty provided by law.
1 25 Sec. _____. Section 421.27, subsection 1, unnumbered
1 26 paragraph 1, Code 2007, is amended to read as follows:
1 27 If a person fails to file with the department on or
1 28 before the due date a return or deposit form there
1 29 shall be added to the tax shown due or required to be
1 30 shown due a penalty of ~~ten~~ twenty percent of the tax
1 31 shown due or required to be shown due. The penalty,
1 32 if assessed, shall be waived by the department upon a
1 33 showing of any of the following conditions:
1 34 Sec. _____. Section 421.27, subsection 2, unnumbered
1 35 paragraph 1, Code 2007, is amended to read as follows:
1 36 If a person fails to pay the tax shown due or
1 37 required to be shown due, on a return or deposit form
1 38 on or before the due date there shall be added to the
1 39 tax shown due or required to be shown due a penalty of
1 40 ~~five~~ ten percent of the tax due. The penalty, if
1 41 assessed, shall be waived by the department upon a
1 42 showing of any of the following conditions:
1 43 Sec. _____. Section 421.27, subsection 3, unnumbered
1 44 paragraph 1, Code 2007, is amended to read as follows:
1 45 If any person fails to pay the tax required to be
1 46 shown due with the filing of a return or deposit and
1 47 the department discovers the underpayment, there shall
1 48 be added to the tax required to be shown due a penalty
1 49 of ~~five~~ ten percent of the tax required to be shown
1 50 due. The penalty, if assessed, shall be waived by the
2 1 department upon a showing of any of the following
2 2 conditions:
2 3 Sec. _____. Section 421.27, subsections 4, 5, 6, and
2 4 7, Code 2007, are amended to read as follows:
2 5 4. WILLFUL FAILURE TO FILE OR DEPOSIT. In case of
2 6 willful failure to file a return or deposit form with
2 7 the intent to evade tax, or in case of willfully
2 8 filing a false return or deposit form with the intent
2 9 to evade tax, in lieu of the penalties otherwise
2 10 provided in this section, a penalty of ~~seventy-five~~
2 11 one hundred fifty percent shall be added to the amount
2 12 shown due or required to be shown as tax on the return
2 13 or deposit form. If penalties are applicable for
2 14 failure to file a return or deposit form and failure
2 15 to pay the tax shown due or required to be shown due
2 16 on the return or deposit form, the penalty provision
2 17 for failure to file shall be in lieu of the penalty
2 18 provisions for failure to pay the tax shown due or
2 19 required to be shown due on the return or deposit
2 20 form, except in the case of willful failure to file a
2 21 return or deposit form or willfully filing a false
2 22 return or deposit form with intent to evade tax.
2 23 The penalties imposed under this subsection are not
2 24 subject to waiver.

2 25 5. FAILURE TO REMIT ON EXTENSION. If a person
2 26 fails to remit at least ninety percent of the tax
2 27 required to be shown due by the time an extension for
2 28 further time to file a return is made, there shall be
2 29 added to the tax shown due or required to be shown due
2 30 a penalty of ~~ten~~ twenty percent of the tax due.

2 31 6. IMPROPER RECEIPT OF REFUND OR CREDIT. A person
2 32 who makes an erroneous application for refund shall be
2 33 liable for any overpayment received plus interest at
2 34 the rate in effect under section 421.7. In addition,
2 35 a person who willfully makes a false or frivolous
2 36 application for refund with intent to evade tax is
2 37 guilty of a fraudulent practice and is liable for a
2 38 penalty equal to ~~seventy-five~~ one hundred fifty
2 39 percent of the refund claimed. Repayments, penalties,
2 40 and interest due under this subsection may be
2 41 collected and enforced in the same manner as the tax
2 42 imposed.

2 43 7. FAILURE TO USE REQUIRED FORM. If a person
2 44 fails to remit payment of taxes in the form required
2 45 by the rules of the director, there shall be added to
2 46 the amount of the tax a penalty of ~~five~~ ten percent of
2 47 the amount of tax shown due or required to be shown
2 48 due. The penalty imposed by this subsection shall be
2 49 waived if the taxpayer did not receive notification of
2 50 the requirement to remit tax payments electronically
3 1 or if the electronic transmission of the payment was
3 2 not in a format or by means specified by the director
3 3 and the payment was made before the taxpayer was
3 4 notified of the requirement to remit tax payments
3 5 electronically.

3 6 Sec. _____. Section 452A.74A, subsection 3, Code
3 7 2007, is amended to read as follows:

3 8 3. IMPROPER RECEIPT OF REFUND. If a person files
3 9 an incorrect refund claim, in addition to the excess
3 10 amount of the claim, a penalty of ~~ten~~ twenty percent
3 11 shall be added to the amount by which the amount
3 12 claimed and refunded exceeds the amount actually due
3 13 and shall be paid to the department. If a person
3 14 knowingly files a fraudulent refund claim with the
3 15 intent to evade the tax, the penalty shall be
3 16 ~~seventy-five~~ one hundred fifty percent in lieu of the
3 17 ~~ten~~ twenty percent. The person shall also pay
3 18 interest on the excess refunded at the rate per month
3 19 specified in section 421.7, counting each fraction of
3 20 a month as an entire month, computed from the date the
3 21 refund was issued to the date the excess refund is
3 22 repaid to the state.

3 23 Sec. _____. Section 453A.31, subsection 1, Code
3 24 2007, is amended to read as follows:

3 25 1. For possession of unstamped cigarettes:

3 26 a. A ~~two~~ four hundred dollar penalty for the first
3 27 violation if a person is in possession of more than
3 28 forty but not more than four hundred unstamped
3 29 cigarettes.

3 30 b. A ~~five hundred~~ one thousand dollar penalty for
3 31 the first violation if a person is in possession of
3 32 more than four hundred but not more than two thousand
3 33 unstamped cigarettes.

3 34 c. A ~~twenty-five~~ fifty dollar per pack penalty for
3 35 the first violation if a person is in possession of
3 36 more than two thousand unstamped cigarettes.

3 37 d. For a second violation within three years of
3 38 the first violation, the penalty is ~~four~~ eight hundred
3 39 dollars if a person is in possession of more than
3 40 forty but not more than four hundred unstamped
3 41 cigarettes; ~~one~~ two thousand dollars if a person is in
3 42 possession of more than four hundred but not more than
3 43 two thousand unstamped cigarettes; and ~~thirty-five~~
3 44 seventy dollars per pack if a person is in possession
3 45 of more than two thousand unstamped cigarettes.

3 46 e. For a third or subsequent violation within
3 47 three years of the first violation, the penalty is ~~six~~
3 48 one thousand two hundred dollars if a person is in
3 49 possession of more than forty but not more than four
3 50 hundred unstamped cigarettes; ~~one~~ three thousand ~~five~~
4 1 hundred dollars if a person is in possession of more
4 2 than four hundred but not more than two thousand
4 3 unstamped cigarettes; and ~~forty-five~~ ninety dollars
4 4 per pack if a person is in possession of more than two
4 5 thousand unstamped cigarettes.

4 6 Sec. ____ EFFECTIVE DATE.
4 7 1. Sections 1 through 4 of this Act, being deemed
4 8 of immediate importance, take effect upon enactment.
4 9 2. Except as provided in subsection 1, this Act
4 10 takes effect January 1, 2008, for taxes due and
4 11 payable on or after that date.>
4 12 #4. Title page, line 2, by inserting after the
4 13 word <and> the following: <providing penalties, and>.
4 14
4 15
4 16
4 17 VAN FOSSEN of Scott
4 18 HF 893.501 82
4 19 mg/je/9086